

**Security Council**

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Tenth report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999)**I. Introduction**

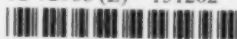
1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999), in which the Council requested me to report every four months on the compliance by Iraq with its obligations regarding the repatriation and return of all Kuwaiti and third-country nationals or their remains and every six months on the return of all Kuwaiti property, including archives, seized by Iraq. The present report covers both issues and provides a brief account of the relevant developments since my last reports (S/2002/664 and S/2002/931).

2. In paragraph 18 of my annual report on the work of the Organization¹ I noted that:

“the Government of Iraq continues to reject Security Council resolution 1284 (1999), on the question of Kuwaiti and third-country missing persons and seized property. Recently, Iraq undertook to return documents belonging to the Kuwaiti national archives and my High-level Coordinator was able to participate in my meetings with the Iraqi Foreign Minister in July 2002. I have proposed the re-establishment of a United Nations mechanism for the return of the national archives and other Kuwaiti property, and the Governments of Kuwait and Iraq have accepted that proposal. Iraq has respectfully refused to meet with my High-level Coordinator to discuss the question of missing persons.”

The present report will provide an update on this issue as the Iraqi authorities have made encouraging indications regarding contacts with Yuli Vorontsov, the High-level Coordinator, including on the issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains.

3. During the reporting period, I maintained a dialogue with high-level Iraqi officials. On 3 September, I met with the Deputy Prime Minister of Iraq, Mr. Tariq Aziz, in Johannesburg and proposed to lay the foundation for making progress on outstanding issues related to Iraq in the manner in which progress had been achieved on the issue of the return of Kuwaiti documents. On 18 September, I had another round of talks with the Minister for Foreign Affairs of Iraq, Mr. Naji Sabri, in New York.



4. In pursuance of his mandate, the Coordinator continued contacts with the leadership of the League of Arab States. The Secretary-General of the League of Arab States received Ambassador Vorontsov in Cairo on 11 March 2002 to discuss issues pertaining to his mandate (see S/2002/419, para. 34). As noted in paragraph 3 of my report on cooperation between the United Nations and the League of Arab States (A/57/386), the League of Arab States, and its Secretary-General, in particular, played a constructive role in facilitating the agreement by Iraq to return documents belonging to the Kuwaiti archives. In subsequent discussions on the procedure for the transfer of the Kuwaiti archives, it was agreed that the League would send representatives to the transfer area to participate in the handover operation (see also para. 60 below).

5. During the open debate of the Security Council on Iraq held on 16 and 17 October, numerous representatives (Argentina, Bulgaria, Cambodia, Cameroon, China, Colombia, Djibouti, Egypt, Guinea, India, Islamic Republic of Iran, Iraq, Ireland, Jamaica, Jordan, Kuwait, Lebanon, Malaysia, Mauritius, Morocco, Oman, Organization of the Islamic Conference, Pakistan, Palestine, Qatar, Russian Federation, Saudi Arabia, Senegal, Singapore, South Africa, Sudan, Syrian Arab Republic, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen) spoke, inter alia, on the issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains, as well as the return of all Kuwaiti property, including the archives, seized by Iraq (see S/PV.4625 and S/PV.4625 Res. 1, Res. 2, Res. 3).

6. On 8 November, the Security Council unanimously adopted resolution 1441 (2002). In the resolution's ninth preambular paragraph, the Council deplored that the Government of Iraq

"ha[d] failed to comply with its commitments ... pursuant to resolutions 686 (1991), 687 (1991) and 1284 (1999) to return or cooperate in accounting for Kuwaiti and third-country nationals wrongfully detained by Iraq, or to return Kuwaiti property wrongfully seized by Iraq".

7. On 9 December, the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah, addressed to me a letter (S/2002/1350) in which he commented on the letter from the President of Iraq, dated 7 December, addressed to the "People in Kuwait". Paragraph 7 of Sheikh Sabah's letter states that the Iraqi leadership "does not have any political will ... to resolve the question of returning all Kuwaiti and third-country nationals or their remains ... since the Iraqi message totally lacks any reference to Iraq's solemn commitment to return all Kuwaiti and other prisoners to Kuwait". Sheikh Sabah also noted that the documents which Iraq had returned to Kuwait "were mere papers that do not in fact constitute the true body of Kuwait State archives in question".

8. On 10 December, I met with the Permanent Representative of Iraq to the United Nations, Ambassador Mohammed Al-Douri, who informed me that the Minister for Foreign Affairs of Iraq had invited the Coordinator to visit Baghdad in order to discuss all issues relevant to his mandate.

II. Repatriation or return of all Kuwaiti and third-country nationals or their remains

A. Background

9. On 21 August, the Coordinator briefed the Council on my ninth report pursuant to paragraph 14 of resolution 1284 (1999) on the repatriation or return of all Kuwaiti and third-country nationals or their remains (S/2002/931). In his briefing, Ambassador Vorontsov noted that, despite the encouraging agreements reached at the Summit of the League of Arab States in Beirut, there had "not been much progress on this issue". He further expressed his readiness, at short notice, to meet with Iraqi officials at any time and at any place and stated that Iraq should use the existing window of opportunity to move forward on that outstanding humanitarian issue.

10. In a subsequent statement to the press, the President of the Security Council stated that members once again expressed their "deep concern at the continuing plight of the Kuwaiti and third-country nationals still remaining in Iraq and expressed their sympathy for their families". They also supported "the Secretary-General's call on Iraq to restore its credibility on the outstanding humanitarian issues and stand by its intention to fully implement the decision of the Beirut Summit on the issue of missing persons". Members of the Council further "stressed the importance of the work of the International Committee of the Red Cross and the Tripartite Commission in solving this humanitarian issue", and "urged Iraq to cooperate fully with Ambassador Vorontsov in fulfilling his mandate as set out in Security Council resolution 1284 (1999)".

11. On 25 August, the Kuwaiti Cabinet expressed satisfaction with the ninth report of the Secretary-General. The Council of Ministers issued a statement expressing appreciation for the empathy of the members of the Security Council with regard to the predicament of the prisoners of war and their grief-stricken families.

12. In a press communiqué issued on 3 September, following the eighty-fourth session of the Ministerial Council of the Gulf Cooperation Council, held in Jeddah, Saudi Arabia, the Council:

"reaffirmed that it persisted in recognizing that Iraq had an obligation to implement all relevant Security Council resolutions and, in particular, to release Kuwaiti and third party prisoners and detainees and to take all practical, tangible measures to ensure that those resolutions were fully implemented and that what happened in 1990 did not happen again" (see A/57/417-S/2002/1042, annex).

13. During the general debate of the General Assembly, several speakers urged Iraq to immediately comply with all relevant Security Council resolutions, especially issues relating to Kuwaiti prisoners and missing persons. The First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, Sheikh Salem Sabah Al-Ahmed Al-Jaber Al-Sabah, in his statement on 13 September before the General Assembly at its fifty-seventh session, emphasized that the Arab leaders demanded that Iraq cooperate in order to find an expeditious and final solution to the question of Kuwaiti prisoners and hostages, "but to our regret, this decision has not been implemented".

14. He later told the press in New York that "it is our hope that this step would be followed by other positive movements that would lead to the release of our prisoners. Only then can this dossier be closed. This humanitarian issue of prisoners has dominated the national agenda of the Government and people of Kuwait since liberation". In an interview with the Kuwait News Agency (KUNA) on 17 September, Sheikh Sabah called for the inclusion of the issue of Kuwaiti and third-country nationals in any new resolution on Iraq. He welcomed Iraq's agreement to the return of weapons inspectors but said that the issue of Kuwaiti prisoners of war was more important "and should be followed by more information on their fate".

15. On 19 September, the Chairman of the Kuwaiti National Committee for Missing Persons and Prisoners of War Affairs, Sheikh Sabah Al-Salem Al-Sabah, addressed a letter to Ms. Mary Robinson on the occasion of the end of her tenure as United Nations High Commissioner for Human Rights. Expressing gratitude to Ms. Robinson for her efforts on behalf of the missing Kuwaitis, in his letter, Sheikh Salem noted that, "It is a matter of a particularly poignant human tragedy involving a great deal of distress, especially to the families of the prisoners of war, who continue to live in absolute incertitude over the fate of their loved ones".

16. On 28 September, Mr. Amre Moussa, Secretary-General of the League of Arab States, underlined the necessity of stepping up international efforts to resolve the issue of the missing Kuwaiti nationals. Speaking in Geneva, Mr. Moussa said he would discuss this matter with Jacob Kellenberger, President of the International Committee of the Red Cross (ICRC).

17. On 29 September, addressing a Kuwait-Egypt Joint Committee meeting, Minister of State for Foreign Affairs of Kuwait Sheikh Mohammed Sabah Al-Salem Al-Sabah remarked that his country was disappointed over Iraq's lack of enthusiasm towards "a positive initiative for the humanitarian cause of the prisoners of war in accordance with the Beirut Summit resolutions". He said that Iraq had been called to resolve the issue of the prisoners of war, but until now there had been no response and "we say that we are disappointed".

18. On 20 October, the Iraqi Revolutionary Command Council issued a decree ordering a general amnesty for all political prisoners. On 21 October 2002, Kuwaiti First Deputy Prime Minister and Foreign Minister Sheikh Sabah Al-Ahmed Al-Jaber Al-Sabah announced that Kuwait had not yet been officially informed of the release of any Kuwaiti prisoners in Iraq pursuant to the general amnesty.

19. On 22 October, Kuwait's ambassador to the League of Arab States, Mr. Ahmed Khaled Al-Kulaib, said in a statement to KUNA that Kuwait had officially asked the League to determine whether there had been Kuwaiti nationals among the prisoners released from Iraqi jails. The Arab League spokesman, Mr. Hisham Yousef, said that Secretary-General Amre Moussa had been in contact with the Government of Iraq, inquiring whether the amnesty was applied to Kuwaiti nationals.

20. On 28 October, in an interview with Iraqi State television, the Vice-President of Iraq, Mr. Taha Yassin Ramadan, dismissed as "baseless" reports suggesting that Iraq was holding Kuwaiti prisoners. He invited the Kuwaiti authorities to visit Iraq and search anywhere for its nationals. On 29 October, Minister of Information of Kuwait, Sheikh Ahmed Al-Fahal Al-Sabah, refuted Mr. Ramadan's statements that Iraq did not hold any Kuwaiti prisoners or prisoners of war. Speaking to KUNA on the same day, the Chairman of the National Committee for Missing Persons and

Prisoners of War Affairs, Sheikh Salem Sabah Al-Salem Al-Sabah, said that the statement made by the Iraqi Vice-President demonstrated that Iraq was violating the promise to cooperate on the humanitarian issue.

21. On 12 November, Information Minister and Acting Oil Minister of Kuwait Sheikh Ahmed Al-Fahal Al-Sabah affirmed the necessity of finding a final and rapid solution to the cause of the Kuwaiti prisoners and detainees held in Iraq and urged Baghdad to "positively implement" Security Council resolution 1441 (2002). After an emergency Arab ministerial meeting held in Cairo, Sheikh Ahmed said, "Iraq must abide by the relevant Security Council resolutions, particularly those concerning the cause of the prisoners".

22. On 20 November, Minister of State for Foreign Affairs of Kuwait Sheikh Mohammad Sabah Al-Salem Al-Sabah reiterated that the plight of Kuwaiti prisoners of war held in Iraq and the issue of eliminating Iraq's weapons of mass destruction should be given equal priority by the international community. He noted that the issue of the prisoners of war would always be at the top of the agenda of the Gulf Cooperation Council (GCC) Summit.

B. Recent activities with regard to repatriation or return of all Kuwaiti and third-country nationals or their remains

23. On 17 September, I met with First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait Sheikh Sabah Al-Ahmed Al-Jaber Al-Sabah in New York. After the meeting, he told the press that the issue of prisoners of war should be among the matters Iraq had to resolve. Kuwait would welcome any new resolution that would include a provision urging Iraq to release all Kuwaiti and third-country nationals. He expressed the hope that the Security Council would continue to follow up the issue of repatriation or return of all Kuwaiti and third-country nationals.

24. On 23 September, I received a letter from the Chairman of the National Committee for Missing Persons and Prisoners of War Affairs, Sheikh Salem Sabah Al-Salem Al-Sabah, in which he expressed gratitude for the efforts made by the United Nations in order to resolve the issue of the Kuwaiti prisoners and third-country nationals. He also expressed the hope that the Security Council would "give to the issue of the prisoners of war the priority it deserves".

25. On 30 September, the Coordinator met in Vienna with Ambassador Said Hassan al-Musawi, Director of the International Organizations and Conferences Directorate at the Iraqi Ministry of Foreign Affairs, and raised, inter alia, the issue of repatriation or return of all Kuwaiti and third-country nationals or their remains. Ambassador al-Musawi stressed that the case of the Iraqi missing persons should be afforded equal international attention and concern, and emphasized the Iraqi desire for bilateral discussions between Kuwait and Iraq on the issue. Ambassador Vorontsov urged Iraq to return any mortal remains of the Kuwaitis, and to account for the 126 persons Iraq had at an earlier stage admitted to having detained in Basra, but claimed to have no knowledge of their whereabouts after the events of March 1991.

26. On 23 October, the Coordinator met with Mr. Arnold Luethold, Deputy Head of the International Organizations Division, and Mr. Eddy Abegg, Deputy Head of Operations for the Middle East and North Africa of the ICRC in Geneva and

reiterated the important role of the ICRC on the issue of repatriation and return of all Kuwaiti and third-country nationals and their remains and expressed hope for positive results. Mr. Luethold emphasized that confidentiality and the independence of the ICRC had to be honoured.

27. The Tripartite Commission met in Geneva on 23 and 24 October. As in previous years, ICRC continued its efforts to encourage the renewed participation of Iraq in the process. The Iraqi authorities informed the ICRC that their position remained unchanged and that they would not attend the current meeting. During his discussions with the members of the Commission present in Geneva, the Coordinator was informed that they actively supported the ICRC in its efforts to resume the Commission's activities. One of the participants noted that the Commission was unable to achieve positive results owing to the lack of cooperation from the Government of Iraq. It was hoped that Iraq, in view of the return of inspectors from the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the return of the Kuwaiti national archives, would also adopt a well-intentioned approach to the humanitarian issue of the prisoners of war, detainees and missing persons. In Geneva, the Coordinator also met with the United States ambassador to Kuwait, Mr. Richard Jones, who raised, at the Tripartite Commission's session, the issue of Captain Scott Speicher.²

28. While in Geneva on 25 October, Ambassador Vorontsov met with Mr. Karim Ghezraoui, Arab Region Coordinator of the Office of the United Nations High Commissioner for Human Rights and asked him to convey to Ambassador Mavrommatis, Special Rapporteur of the Commission on Human Rights that the issue of Iraqi missing persons had been raised in all reports of the Secretary-General. That issue was pursued with the full concurrence of Kuwaiti officials, despite the fact that it was not mentioned in Security Council resolution 1284 (1999).

29. On 28 October, the High-level Coordinator travelled to Kuwait, where he met with Sheikh Sabah Al-Khalid, Head of the National Security Bureau of Kuwait. During the meeting, Sheikh Sabah Al-Khalid expressed Kuwait's willingness to take whatever additional steps were necessary to resolve the issue of missing persons. Ambassador Vorontsov stressed the importance of making progress, at least initially, on the return of mortal remains. He also met with Sheikh Salem Al-Sabah, Chairman of the National Committee for Missing Persons and Prisoners of War Affairs. During the meeting, it was noted that there had been no progress to report on the issue of repatriation or return of all Kuwaiti and third-country nationals or their remains.

30. On 29 October, the Coordinator was received by Acting Prime Minister and Minister for Foreign Affairs Sheikh Sabah Al-Ahmed Al-Jaber Al-Sabah, who expressed hope that progress could soon be made on the relevant humanitarian issue. Ambassador Vorontsov said that he had urged Iraq on many occasions to cooperate with the United Nations on the repatriation or return of all Kuwaiti and third-country nationals or their remains. The Coordinator regretted that no new information about the existence of Kuwaiti missing persons in Iraq was available. While noting that the transfer of Kuwaiti documents was a positive development, the Coordinator stressed that his mission required much persuasion from all parties concerned with the plight of the missing persons.

31. It will be recalled that the Special Rapporteur of the Commission on Human Rights continued to follow developments with regard to Kuwaiti prisoners of war

and persons unaccounted for, as well as missing Iraqis. In the third interim report on the situation of human rights in Iraq (A/57/325), presented to the General Assembly on 5 November, Ambassador Mavrommatis welcomed the general amnesty for prisoners declared in Iraq recently. However, he stated, in paragraph 21 of his report, that "with regard to the issue of Kuwaiti prisoners of war and persons unaccounted for since the time of the Iraqi occupation of Kuwait, the Special Rapporteur notes that there have been no positive developments during the reporting period. As previously stated, the Special Rapporteur urges the Government of Iraq to cooperate with the Tripartite Commission and the High-level Coordinator, Ambassador Yuli Vorontsov".

32. In paragraph 7 of the letter to me dated 23 November (S/2002/1294, annex), the Iraqi Minister for Foreign Affairs, Mr. Naji Sabri, made the following statement:

"Iraq has cooperated fully with the States concerned ascertaining the fate of missing Kuwaiti nationals and nationals of third countries, and it has expressed its full willingness to cooperate directly with Kuwait to resolve this humanitarian issue which involves 1,137 missing Iraqis, 582 missing Kuwaitis and members of other nationalities, and removing this issue from the tendentious politicization perpetrated by the United States administration which is detrimental to both sides. Iraq has been cooperating, and continues to cooperate, with the International Committee of the Red Cross on the grounds that it is a neutral international party, and with the States that have files of missing persons, thereby complying with the obligations specified in the Geneva Convention of 1949".

33. On 24 November, the General Coordinator of ICRC, Mr. Balthasar Staehelin, arrived in Kuwait from Baghdad and held talks on the means of resolving the issue of the missing persons. He expressed hope that Iraq would resume its cooperation with the Tripartite Commission. He also told KUNA that ICRC was urging Iraq to implement the resolutions related to the missing persons.

34. On 27 November, I received a letter from the Secretary-General of the League of Arab States, Mr. Amre Moussa, in which he informed me that Iraq had agreed to a suspension of the legal quorum of the Technical Subcommittee of the Tripartite Commission concerned with the issue of prisoners and missing persons and would resume its participation in the work of the Subcommittee for a period of four months. Such a suspension would allow for the convening of meetings between Iraq and any other member of the Tripartite Commission in the presence of a third member of the Commission agreed to by Iraq and the other party. Mr. Moussa expressed hope that the new Iraqi move would help break the deadlock on the question of prisoners and missing persons and ensured that the League would continue to coordinate with the United Nations on this important issue.

35. On 29 November and again on 10 December, Ambassador Vorontsov met with the Permanent Representative of Iraq, Ambassador Mohammed Al-Douri, in New York to discuss, inter alia, Iraq's agreement to resume participation in the work of the Technical Subcommittee of the Tripartite Commission and other relevant developments.

III. Return of all Kuwaiti property, including archives, seized by Iraq

A. Background

36. On 21 June, the Coordinator briefed the Council in connection with my eighth report (S/2002/664). He noted in particular that at the fourteenth Arab Summit in Beirut on March 28 Iraq had been called upon to cooperate in seeking an expeditious and definitive action to the issue of returning Kuwaiti properties, especially the national archives. Now there was an official agreement by Iraq to return the documents. The Governments of Kuwait and Iraq had concurred with the proposal of the Secretary-General to re-establish the mechanism previously used for the return of Kuwaiti property.

37. Following the briefing, the President of the Security Council expressed "the Council's support for the High-level Coordinator's work" and "the importance of dialogue between Ambassador Vorontsov and the Government of Iraq". Members of the Council took note of the acknowledgement by the Government of Iraq that it did possess Kuwait's national archives, and that it was ready to return them through the United Nations mechanism that would include the League of Arab States. The Government of Iraq was urged to make further efforts regarding the whereabouts of all remaining Kuwaiti properties in its possession, including the military equipment not yet returned to Kuwait.

38. On 26 June, a spokesman for the League of Arab States announced that discussions were under way on a suitable mechanism for the return of Kuwaiti archives. The Assistant Secretary-General for Arab Affairs of the League of Arab States, Mr. Ahmed Al-Hilly, said that the mechanism would be established by the United Nations with the participation of representatives from Iraq, Kuwait and the League.

39. During my talks with the Minister for Foreign Affairs of Iraq in Vienna on 4 and 5 July, Ambassador Vorontsov briefed the Iraqi delegation on the details of the mechanism for the return of Kuwaiti properties. He handed to the Iraqi delegation the outline of that mechanism. With respect to separate items of Kuwaiti property found by the Iraqi authorities since 1997 and as suggested in the letter dated 23 May 2001 addressed to me by the Permanent Representative of Iraq (S/2001/528), it was agreed that an international staff member of the United Nations Iraq-Kuwait Observation Mission (UNIKOM) would be designated in order to facilitate the transfer of those items. At the end of the talks on the matter, I noted that on the issue of Kuwaiti property, there was now a clear understanding for creating a detailed mechanism for the return of the Kuwaiti National Archives. In my statement to the press, I confirmed that, "as indicated earlier, Iraq has agreed to return the Kuwaiti National Archives and we have now agreed, both with Iraq and Kuwait, to re-establish the mechanism for the transfer of property that was used previously during 1991-1996".

40. The Coordinator visited Kuwait from 6 to 8 July to discuss, inter alia, the latest developments on the return of the Kuwaiti archives. In a series of meetings with Sheikh Sabah Al-Ahmad, First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, Mr. Khalid Al-Jarallah, Under-Secretary of the Ministry of Foreign Affairs, Sheikh Mohammed Al-Salem Al-Sabah, Minister of State for

Foreign Affairs of Kuwait and Mr. Ibrahim Al-Shaheen and Mr. Rabea Al-Adsani of the National Committee for Missing Persons and Prisoners of War Affairs, Ambassador Vorontsov informed that the process of the return would begin soon and that UNIKOM would be facilitating the operation.

41. On 8 July, my Chef de Cabinet, Mr. S. Iqbal Riza, briefed the Council on the outcome of the talks in Vienna. Drawing the Council members' attention to my previous correspondence with Iraq, Kuwait and the League of Arab States (see S/2002/664, paras. 29-31), Mr. Riza informed the Council that Iraq had agreed to the re-establishment of the mechanism used in previous transfers of Kuwaiti property. Members of the Council took note of Iraq's agreement to return the archives.

42. In a subsequent statement to the press, the President of the Security Council said that the Chef de Cabinet had reported "some Iraqi movement towards complying with obligations under the resolutions on Kuwaiti property and archives and on agreement on the setting up of a mechanism for that. Council members expressed the hope that this would lead to concrete Iraqi action on those issues".

43. On 16 July, the Permanent Mission of Iraq to the United Nations forwarded to the members of the Security Council a summary of the Vienna round of talks in which it was stated that, "regarding the return of property and archives, Mr. Vorontsov attended the opening and closing general sessions. He spoke only in the opening session, presenting a paper that contains a mechanism to return the archives and what Iraq has found of Kuwaiti property since 1997 (which the United Nations Secretariat has not received yet, despite Iraq's repeated calls to do so).³ The mechanism is the same one that was used during 1991-1996".

44. On 28 July, Major General Miguel Moreno, Force Commander of UNIKOM, and his Senior Adviser, Mr. Tesfaye Tadesse, travelled to Baghdad to meet with Iraqi Foreign Minister Naji Sabri to discuss the role of UNIKOM in facilitating the transfer of the Kuwaiti archives and separate items of Kuwaiti property. (A similar discussion had been held with Kuwaiti officials at Abdally on 14 July.)

B. Recent activities with regard to the property issues

45. On 17 July, I addressed letters to the Ministers for Foreign Affairs of Iraq and Kuwait, informing them of my intention to appoint Mr. J. Richard Foran at the Assistant Secretary-General level to lead a small team of United Nations staff who would facilitate the return of the archives and related documents. Mr. Tadesse was requested to facilitate the return of the separate items of Kuwaiti property. They were to report to me through the Coordinator. On 23 July, I briefed the members of the Council of Mr. Foran's appointment and Mr. Tadesse's additional responsibility. On 1 August, I met with the team leader for the return of the Kuwaiti Archives, Mr. J. Richard Foran, to discuss in detail the handover agenda.

46. After initial meetings in New York with the Chargé d'affaires of the Permanent Mission of Iraq, Mr. Abdul Munim Al-Kadhe, the Permanent Representative of Kuwait to the United Nations, Ambassador Mohammad Abulhasan, and the Permanent Observer of the League of Arab States to the United Nations, Ambassador Yehya Mahmassani, Mr. Foran travelled to the region in mid-August.

47. On 13 August, Mr. Foran and his team arrived in Baghdad to discuss with the Government of Iraq the modalities of how the transfer would take place, within the

framework of what had been agreed in Vienna. Speaking to the press after a meeting with Iraqi Minister for Foreign Affairs Naji Sabri on 14 October, Mr. Foran expressed optimism and did not foresee any difficulties since the Iraqi officials had indicated that they would be helpful in every possible way.

48. The meeting with the Minister for Foreign Affairs of Iraq was followed by a round of technical meetings with senior Iraqi officials headed by Ambassador Said Hassan al-Musawi, Director of the International Organizations and Conferences Directorate in the Iraqi Ministry of Foreign Affairs. The Iraqi officials assured Mr. Foran of their willingness to cooperate and to return the documents at a time and venue acceptable to Kuwait.

49. On 17 August, a four-man panel was set up in Kuwait to receive the archives. A representative of Kuwait's Minister for Foreign Affairs chaired the Committee. Other members represented the Amiri Diwan and the Interior and Defence Ministries. One of the Committee's main duties was to ensure that the archives arrived in good order.

50. On 18 August, Mr. Foran travelled to UNIKOM headquarters at Umm Qasr in the demilitarized zone between Iraq and Kuwait. After meeting with the UNIKOM Force Commander, Mr. Foran's team continued to Kuwait for further negotiations.

51. On 19 August, a spokesman for the League of Arab States said that the League was not in favour of a proposal by Iraq to involve the Organization in the mechanism for the return of the Kuwaiti national archives. The Arab League would only act "as a mediator or a linkage between Iraq and the United Nations, possibly helping to translate the documents if requested by the United Nations".

52. On 19 and 21 August, Mr. Foran met with Minister of State for Foreign Affairs of Kuwait Sheikh Muhammed Al-Salem Al-Sabah, Under-Secretary Khalid Al-Jarallah, and Ambassador Aqeel Behbehani, Deputy Director of the International Organizations Department of the Ministry of Foreign Affairs. Sheikh Muhammed expressed the hope that Mr. Foran's mission would be successful. Kuwaiti officials proposed that the transfer of the archives take place at Camp Abdally, in the Kuwaiti sector of the demilitarized zone between Iraq and Kuwait.

53. On 23 August, Mr. Foran returned to Baghdad for further negotiations based on the results of his talks in Kuwait. In the second round of meetings, a group of officials from the Iraqi Ministry of Foreign Affairs headed by Ambassador Said Hassan al-Musawi and Mr. Muhammed Turki Aldouri, Assistant Director of the Office of Finance and Management, agreed that the transfer would take place at Camp Abdally. They requested that the Iraqi delegation be treated with due respect when entering Kuwaiti territory.

54. On 26 August, Mr. Foran returned to Kuwait to meet with Sheikh Muhammed Al-Salem Al-Sabah, Minister of State for Foreign Affairs, and Ambassador Abdul Hamid Al-Awadhi, Director of the International Organizations Department of the Ministry of Foreign Affairs and briefed them on his talks in Baghdad.

55. On 27 August, Mr. Foran announced that Iraq and Kuwait had agreed on the arrangements for the return of the Kuwaiti archives and that he expected the operation to begin shortly. He expressed appreciation for Iraq's efforts to facilitate the operation and recalled that, during the talks in Vienna in July, the Iraqi Minister

for Foreign Affairs had agreed to the mechanism for returning the Kuwaiti archives as presented to the Iraqi delegation by the Coordinator.

56. Upon his return to New York on 30 August, Mr. Foran addressed letters to the Permanent Representatives of Iraq and Kuwait and the Permanent Observer of the League of Arab States with proposals for the procedures to be followed for the return of the Kuwaiti archives and an outline of actions to be taken by the parties concerned.

57. The procedures proposed by Mr. Foran were largely identical to those followed during previous transfers (outlined in detail in S/1994/243 and Add.1). However, minor adjustments were made in view of the different nature of the items to be transferred (that is, this was the first time the transfer operation would involve government documents), as well as the participation of representatives from the League of Arab States. Moreover, the parties had agreed to conduct the transfer at Camp Abdally, making it the first such transfer on Kuwaiti soil.

58. On 3 September, the Permanent Representative of Kuwait to the United Nations, Ambassador Mohammad Abulhasan, informed Mr. Foran of Kuwait's acceptance of the proposed procedures. In his letter, Ambassador Abulhasan reiterated Kuwait's understanding that the procedures for the transfer of property did not necessarily imply acknowledgement by the Government of Kuwait of the authenticity of those documents or their significance, as the documents would require a thorough examination by experts from the competent authorities after their transfer.

59. In a letter to the Permanent Representative of Iraq, Ambassador Mohammed Al-Douri, dated 9 September, Mr. Foran emphasized the importance attached by Kuwait to the authenticity and significance of the documents to be returned. He referred to the annex to the third report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999) (S/2000/1197), which lists documents to which the State of Kuwait attached priority.

60. Ambassador Al-Douri replied on 10 September, informing Mr. Foran of his Government's approval of the proposed procedure. In a subsequent exchange of letters, it was agreed that the transfer operation would begin on 19 October and that the League of Arab States would send three representatives. The role of the League of Arab States, as agreed in the proposed procedures, would be to participate in the transfer and to sign the transfer documents as a witness to the transfer.

61. It will be recalled that, on 30 September, the Coordinator met in Vienna with Ambassador Said Hassan al-Musawi, Director of the International Organizations and Conferences Directorate at the Iraqi Ministry of Foreign Affairs (see para. 25 above), who informed him that "Iraq had several truckloads of documents ready to be handed over". Ambassador Vorontsov stressed that the transfer should begin with documents of importance to the Government of Kuwait, such as the archives of the Amiri Diwan and the Ministry of Foreign Affairs.

62. On 4 October, the Permanent Representative of Iraq to the United Nations, Ambassador Mohammed Al-Douri, addressed a letter to Mr. Foran in which he stated that the Iraqi side had completed its preparations to deliver the archives. Mr. Foran responded on 7 October, informing Iraq that Kuwaiti authorities had asked if it would be possible to first deliver the files from the Amiri Diwan. On 12 October, Ambassador Al-Douri replied that "Iraq will deliver the Kuwaiti documents which

have been gathered until now, including communications between various Kuwaiti departments and the Amiri Diwan".

63. On 18 October, my spokesman issued a statement in which it was noted that the modalities for the transfer had been arranged with Iraq and Kuwait by the United Nations in August 2002. On 19 October, the delegations met for the first time at the transfer site and used the occasion to make themselves acquainted with the procedures and discuss some outstanding details. The Iraqi delegation had brought detailed packing lists for the boxes, which were turned over to the Kuwaiti delegation for review.

64. The United Nations team consisted of four international staff, the Iraqi delegation comprised six diplomats, while the Arab League had three representatives who witnessed the transfer. Kuwait had a core team of five officials and sent additional representatives from the concerned ministries as the documents were being transferred.

65. The actual transfer commenced on 20 October. The Iraqi delegation was escorted into the Kuwaiti sector of the demilitarized zone by a United Nations convoy every day and brought one or two trucks loaded with documents to be handed over within that day. Documents were not allowed to be left behind at the transfer site by either party, and at no time were they in the custody of the United Nations. The transfer was organized in such a way that representatives of the United Nations and the League of Arab States did not view the documents unless specifically invited to do so by Kuwait.

66. On 26 October, Ambassador Ghassan Muhsin Hussain, head of the Second Political Department at the Ministry of Foreign Affairs and head of the Iraqi delegation during the return of documents, said in a statement to the Iraqi News Agency (INA) that Kuwait had received a total of 409 boxes from the archive of its Ministry of Foreign Affairs, Interior Ministry and State Security Department and that "a positive atmosphere had prevailed during the handover process".

67. On 27 October, the Coordinator visited Camp Abdally and noted that the transfer was proceeding smoothly. He then proceeded to Kuwait City to meet with Sheikh Sabah Al-Khalid, Head of the National Security Bureau, Sheikh Sabah Al-Hamad, First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, and Sheikh Salem Al-Sabah, Chairman of the National Committee for Missing Persons and Prisoners of War Affairs (see also paras. 29-30 above). Reporting on the progress of the transfer operation, the Coordinator said that the handover was going "better than expected" from a procedural point of view.

68. The transfer was completed on 29 October, after a total of 10 days, sooner than had first been anticipated, primarily because of the Kuwaiti decision not to inspect the documents on the site. While some boxes were opened and their contents checked against the packing lists, the Kuwaiti delegation asserted its right to inspect the documents more thoroughly and to note any comments within 60 days of their transfer. Mr. Foran stated on that occasion that there had been no official complaint from Kuwait during the transfer operation, and added that the United Nations role did not include inspecting the documents. In total, 425 boxes and 1,158 bags were transferred to Kuwait. The documents belonged to the General Department of State Security, the Ministry of Foreign Affairs, Ministry of Information, National Bank of Kuwait, Ministry of the Interior, Ministry of Oil and Ministry of Defence.

69. On the occasion of the completion of the operation, my spokesman issued the following statement:

"The current operation of the transfer of the first batch of Kuwaiti documents was completed today. The United Nations arranged the transfer while representatives of the League of Arab States witnessed the procedures. Substantive issues regarding the nature and content of these documents should be referred to either Iraq or Kuwait because the transfer was organized in such a way that only Iraq or Kuwait has access to the contents of the individual files. The United Nations never had custody of the documents. Kuwaiti officials are examining the transferred documents."

70. As reported by KUNA on 29 October, Minister of Information and Acting Minister of Oil of Kuwait Sheikh Ahmad Al-Fahad Al-Sabah said that "what Kuwait had received from Iraq, up until now, was not considered to be 'documents' and had little relevance". He noted that "documents that had been stolen during the Iraqi invasion of Kuwait made up the entire archives while the returned documents were photocopies of civil identification cards, passports and other documents that did not represent archives". The Minister expressed the hope that Iraq would return more of the documents in the future.

71. In his letter to me dated 8 November (S/2002/1237, annex), the Minister for Foreign Affairs of Iraq, Mr. Naji Sabri, referred to the agreement on modalities for the return of the Kuwaiti archives reached in Vienna on 4 and 5 July and informed me that the handover of the Kuwaiti archives had been completed. He reiterated that, in accordance with the assurances given by Iraq at the commencement of the restitution of property in 1991, any Kuwaiti items or documents that were found subsequently would be returned in the same way. The Minister expressed gratitude for the sincere and sustained efforts of the delegations of the United Nations, led by Mr. J. Richard Foran and of the League of Arab States, led by Mr. Muhammad Fu'ad Sirri.

72. On 20 November, the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah, addressed to me a letter (S/2002/1275, annex) in response to the above-mentioned letter from the Minister for Foreign Affairs of Iraq. In his response, Sheikh Sabah noted that Kuwait regarded the return of archives as a positive step that it hoped would be complemented by the return of all the property that had been looted from Kuwait at the time of the Iraqi occupation of the country. He further stated that "from the preliminary scrutiny of the documents made by the agencies concerned, and despite the fact that they include files belonging to the Ministry of Foreign Affairs and the Office of the Amir, it has become evident that they are of a routine character and do not in any way amount to what can be considered State archives". The First Deputy Prime Minister also noted that Iraq's statement that any documents found in the future would be handed over was "tantamount to an explicit acknowledgement on its part that it still has such documents in its possession". The letter indicated that Kuwait did not agree that the issue of its national archives should be closed. While commending the efforts of the United Nations and the League of Arab States, Sheikh Sabah Al-Ahmad pointed out that only Kuwait "ha[d] the right to render judgement on the extent of Iraq's cooperation ... on the basis of its familiarity with its own documentation". As is noted in the letter, and in the present report, Kuwait

has a period of 60 days from the day of transfer to examine and comment on the documents received from Iraq.

73. The Permanent Representative of Kuwait, Ambassador Mohammed Abulhasan, in a statement to KUNA, said that the properties should be addressed as international commitments, stipulated by relevant Security Council resolutions. On the recently returned archives, Ambassador Abulhasan referred to the letter by the First Deputy Prime Minister and Foreign Minister, Sheikh Sabah Al-Ahmad Al-Sabah, in which he asserted that the documents "were insignificant".

74. On 23 November, the Minister for Foreign Affairs of Iraq, Mr. Naji Sabri, addressed to me a letter (S/2002/1294, annex) in which he commented on resolution 1441 (2002). In paragraph 7 of his letter, the Minister for Foreign Affairs stated that "the ninth preambular paragraph accuses Iraq ... of failing to cooperate in respect of missing persons and property". He further noted that "as far as Kuwaiti property is concerned, this has been returned to Kuwait by Iraq, ending with the Kuwaiti archive which was handed over by the Iraqi authorities to Kuwait during the period from 19 to 29 October 2002".

75. On 4 December, the Permanent Representative of Iraq, Ambassador Mohammed Al-Douri, addressed a letter to Mr. J. Richard Foran informing him that a collection of documents belonging to the Kuwait Museum had been found and would be returned in accordance with the agreed procedure at a time agreed upon by the United Nations, Kuwait and Iraq.

IV. Observations

76. It will be noted that, on the issue of the return of the Kuwaiti archives, some encouraging developments have taken place since Iraq has returned a first batch of documents and a practical mechanism for the return of other Kuwaiti property has been re-established. The Government of Kuwait is still scrutinizing the returned documents while the Minister for Foreign Affairs of Iraq has confirmed that "any Kuwaiti items or documents that were found subsequently could be returned the same way". To this end, I appeal to the Iraqi authorities to redouble their efforts aimed at the return of remaining Kuwaiti property without delay.

77. On the issue of repatriation of missing Kuwaiti and third-country nationals or their remains, progress has been limited despite some new positive elements. The Iraqi officials are now meeting with the Coordinator. In addition, Iraq recently informed the League of Arab States of its intention to resume participation in the Technical Subcommittee of the Tripartite Commission.

78. On 11 December, the Permanent Representative of Iraq wrote to the Coordinator informing him that the Minister for Foreign Affairs of Iraq would welcome his visit to Baghdad. It is my sincere hope that this and other developments noted in the present report are the beginning of a process, which would eventually enable me to report more substantive progress in the near future. I urge Iraq to comply fully with relevant Security Council resolutions and to cooperate with the Coordinator, particularly in his capacity as a facilitator of activities aimed at the resolution of humanitarian issues.

Notes

- ¹ Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 1 (A/57/1).
- ² On 18 July, the United States sent a diplomatic note to Iraq with a list of technical questions highlighting unresolved issues in the Speicher case. Iraq has yet to respond to the note. In news media, Iraqi officials have contended that Captain Speicher is dead. On 11 October, the United States Secretary of the Navy changed Captain Speicher's status from Missing in Action to Missing/Captured.
- ³ The transfer of the separate items of Kuwaiti property listed in the annex to the present report is being arranged by Mr. Tadesse with Iraqi and Kuwaiti officials and is expected to take place in the near future.

Annex

Separate items of Kuwaiti property to be returned by Iraq as listed by the Iraqi Ministry of Foreign Affairs

1. A green leather case inscribed "Gift to His Highness Sheikh Jaber Al-Ahmad Al-Sabah from his brother King Fahd Ben Abdul-Aziz".
2. A magnum revolver with rifle stock and sight inscribed "For the Amirs and Kings of the Gulf — Jaber Al-Ahmad Al-Sabah".
3. An automatic hunting rifle inscribed "Sheikh Mubarak Al-Abdalah Al-Ahmad".
4. Thirteen dishes as follows:
 - (a) Five large dishes with decorated edge in 24-carat gold bearing the emblem of Kuwait;
 - (b) One small dish with decorated edge in 24-carat gold bearing the emblem of Kuwait;
 - (c) One decorated dish in 24-carat gold bearing the emblem of Kuwait;
 - (d) Five medium-small dishes with decorated edge in 24-carat gold, without emblem;
 - (e) One small dish with decorated edge in 24-carat gold, without emblem.
5. One bronze statuette of a South-East Asian man playing a musical instrument.
6. A Smith & Wesson steel magnum revolver numbered 357 and inscribed "Presented to His Excellency Sheikh Salem Sabah Al-Salem Al-Sabah".
7. A painting entitled "Doves of the East" by the English artist Alfred Elmore and dated 1880, damaged.
8. A painting of a rural Dutch scene from the classical period.
9. A painting of churches by an artist from one of the socialist countries from the early twentieth century.
10. A painting of a snowy forest scene by a contemporary artist, dated 1985.
11. Two swords inscribed "this weapon was produced during the reign of His Highness Sheikh Jaber Al-Ahmad Al-Jaber Al-Sabah 1404 H/1984 A.D." and stamped with the British Royal seal and the letter W in English as well as the Koranic verse "In Yansurukum Allah Fala Ghaleb Lakum", and a leather sheath for one sword.
12. One small carpet presented by the former Shah of Iran to His Highness Sheikh Jaber Al-Ahmad Al-Jaber Al-Sabah, Prince of Kuwait, described as follows:

Size: 32.5 inches by 26.5 inches

Upper margin carries the phrase "Gift of the Shah"

Lower margin carries the phrase "State of Kuwait/Shaikh Jaber Al-Ahmad Al-Sabah/Prince of Kuwait"

Kuwaiti flags adorn the edges of the carpet.